

**MAYOR AND COUNCIL  
THE TOWN OF FOREST HEIGHTS  
CHARTER AMENDMENT RESOLUTION NUMBER 02 - 21**

**A CHARTER AMENDMENT RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF FOREST HEIGHTS, MARYLAND, EXPEDITED PURSUANT TO GUBERNATORIAL EMERGENCY ORDER, AMENDING SECTIONS 33-18 (THE MAYOR; POWERS AND DUTIES) AND 33-38 (REGISTRATION, NOMINATIONS AND ELECTIONS; REGULATION AND CONTROL) OF THE CHARTER OF THE TOWN OF FOREST HEIGHTS, MARYLAND TO AUTHORIZE AND ALLOW THE MAYOR AND COUNCIL DURING A DECLARED CIVIL EMERGENCY TO AMEND OR MODIFY BY PROCLAMATION AND SUBSEQUENT RESOLUTION THE MANNER OF VOTING AND CASTING OF BALLOTS AND OTHER PROCEDURES AND REQUIREMENTS PERTAINING TO THE CONDUCT OF ELECTIONS PREVIOUSLY ESTABLISHED BY CHARTER OR ORDINANCE CODE AND GENERALLY RELATED TO REGISTRATION, NOMINATIONS AND MUNICIPAL ELECTIONS**

**INTRODUCED BY:** Mayor Habeeb-Ullah Muhammad

**WHEREAS**, the Town of Forest Heights, Maryland pursuant to its Charter is scheduled to hold a Municipal Election on the “second Wednesday of March” or the 10th day of March 2021; and

**WHEREAS**, to initiate a charter change pursuant § 4-304 of the LG Article of the Maryland Code, the elected governing body of a municipality must typically first pass a resolution to effect a charter change and must post an exact copy of the charter amendment resolution at the town hall or some other public place for at least 40 days after passage of the resolution, and the law further requires the municipality to publish a “fair summary” of the proposed amendment not less than four times at weekly intervals in a newspaper of general circulation in the community, and unless an approved charter amendment is petitioned to referendum, an amendment becomes effective 50 days after a municipal governing body passes a charter amendment resolution; and

**WHEREAS**, furthermore the General Assembly of Maryland added additional time needed to pass a charter amendment when it passed HB 615 during the 2018 session effective July 1, 2018 requiring the legislative body of a municipality to hold a public hearing and give at least 21-days’ notice by posting the notice in a public place before adopting a resolution initiated by the legislative body that proposes an amendment to the municipal charter; and

**WHEREAS**, the Governor of Maryland, as of March 5, 2020, declared a state of emergency and catastrophic health emergency for the epidemic known as COVID-19, and the Governor subsequently postponed the State primary election and took other extraordinary measures contemporaneous and subsequent thereto including but not limited to the method,

mode and procedures in voting at the General Election and other measures applied throughout the pandemic that have continued well into the new year; and

**WHEREAS**, the Governor's Order dated March 12, 2020 (No. 20-03-30-03) states that "[t]he head of each unit of State or local government may, upon a finding that the suspension [of legal time requirements] will not endanger the public health, welfare, or safety, and after notification to the Governor, suspend the effect of any legal or procedural deadline, due date, time of default, time expiration, period of time, or other time of an act or event described within any State or local statute, rule, or regulation that it administers...[and] that the unit head shall provide reasonable public notice of any such suspension..."; and

**WHEREAS**, the Governor's Office of Counsel and the Town Attorney have opined that in order to properly suspend or modify the conduct of election requirements found in a municipal charter, that a charter amendment resolution should be passed along with an appropriate notice and/or proclamation issued pursuant to a civil emergency powers ordinance that suspends the state statutory procedures (Subtitle 3 of Title 4 of the LG Art.) for adopting a charter amendment resolution, in part, because the Governor can order the suspension of deadlines and timelines in state statutes; but, in the opinion of the Governor's counsel, the Governor cannot suspend the Constitution of Maryland, which expressly requires that a charter amendment resolution be adopted pursuant to Article XI-E (Municipal Home Rule) in order to abrogate the elections procedures and requirements (e.g., the method of voting such as solely by mail, drop box or some other means contrary to the current Charter); and

**WHEREAS**, the Governor's Order (No. 20-03-30-03) entitled "Enabling Municipalities to Postpone Elections," dated March 30, 2020 states that "[a] municipality may suspend the effect of a provision of Title 4, Subtitle 3 of the Local Government Article of the Maryland Code if...the municipality provides notice to the Governor; and finds that such suspension will not endanger the public health, welfare or safety; and is necessary to amend; a. the date on which the municipal election will be held; or the method, conduct or voting system of an election in a manner that ensures an accurate vote count and certification of the election results; and b. [t]he provision regards: i. [p]ublic hearings to be held on proposed amendments to the municipal charter; or ii. [t]he date the amendments shall take effect as part of the municipal charter after the resolutions are adopted;" and

**WHEREAS**, Section 33-38 of the Town Charter empowers the Town Council to provide by ordinance in every respect not covered by the provisions of the Town Charter for the conduct of registration, nomination, and Town elections and for the prevention of fraud in connection therewith, and for a recount of ballots in case of doubt or fraud; and

**WHEREAS**, the Mayor and Town Council find that during the current State and/or locally declared emergency it is in the best interest of the Town to immediately amend the Town Charter to provide the Mayor or Council with the authority to cause the modification of certain election related procedures and timelines, and that that the Governor's Emergency Orders dated March 12 & 30, 2020 allowing for the abrogation of legal and regulatory timeframes found in

State statutes for adopting this charter amendment resolution should be invoked or utilized to change and modify the procedural requirements found in the relevant State statutes to allow this charter amendment resolution to take effect immediately or soon after its passage.

**Section 1. NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF FOREST HEIGHTS** on this 17th day of February 2021, that Section 33-18 (Powers and duties) and Section 33-38 (Regulation and control) of the Charter of The Town of Forest Heights, Maryland shall be and is hereby amended to read as follows:

\* \* \*

### **THE MAYOR**

\* \* \*

#### **Section 33-18. Powers and duties.**

\* \* \*

(e) Other POWERS AND DUTIES. The Mayor shall have such other powers and perform such other duties as may be prescribed by this Charter or as may be required of him OR HER by the Council OR OTHER LAW, not inconsistent with this Charter, INCLUDING BUT NOT LIMITED TO THOSE POWERS DELEGATED TO THE MAYOR BY ORDINANCE, STATE STATUTE OR THE GOVERNOR'S PROCLAMATIONS TO BE EXERCISED DURING DECLARED CIVIL EMERGENCIES.

\* \* \*

### **REGISTRATION, NOMINATIONS, AND ELECTIONS**

\* \* \*

#### **Section 33-38. Regulation and control.**

(A) The Council shall have the power to provide by ordinance in every respect not covered by the provisions of this Charter for the conduct of registration, nomination, and Town elections and for the prevention of fraud in connection therewith, and for a recount of ballots in case of doubt or fraud.

(B) THE COUNCIL MAY AUTHORIZE BY ORDINANCE THAT DURING A DECLARED LOCAL (MUNICIPAL) OR STATE EMERGENCY AND UPON A FINDING THAT THE SUSPENSION, MODIFICATION OR CHANGE WILL NOT ENDANGER THE PUBLIC HEALTH, WELFARE OR SAFETY AND AFTER REASONABLE NOTIFICATION TO THE GOVERNOR AND THE PUBLIC:

CAPITALS	:	Indicate matter added to existing law	Page 3 of 7
[[Brackets]]	:	Indicate matter deleted from existing law	
Asterisks * * *	:	Indicate that text is retained from existing law but omitted herein.	

(1) THE MAYOR BY PROCLAMATION OR THE COUNCIL BY SUBSEQUENT WRITTEN RESOLUTION MAY SUSPEND OR MODIFY THE EFFECT OF ANY LEGAL OR PROCEDURAL DEADLINE, DUE DATE, TIME OF DEFAULT, TIME EXPIRATION, PERIOD OF TIME, OR OTHER TIME FRAME REQUIRED OR PRESCRIBED OF AN ACT OR EVENT DESCRIBED WITHIN THIS CHARTER REGARDING THE CONDUCT OF REGISTRATION, NOMINATIONS, AND TOWN ELECTIONS; AND

(2) THE MAYOR OR COUNCIL MAY MODIFY OR CHANGE THE PROVISIONS OF THIS CHARTER FOR THE SAFE AND EFFICIENT CONDUCT OF REGISTRATION, NOMINATIONS, AND TOWN ELECTIONS AND FOR THE PREVENTION OF FRAUD IN CONNECTION THEREWITH, AND FOR A RECOUNT OF BALLOTS IN CASE OF DOUBT OR FRAUD.

\* \* \*

**SECTION 2.** **AND BE IT FURTHER RESOLVED** that, unless an emergency proclamation, notice or resolution issued subsequently states otherwise, this Charter Amendment Resolution is adopted on the aforementioned date, and that upon a hearing and adoption by the Town Council, a complete and exact copy of this Charter Amendment Resolution shall be posted in the Town Office for a period of at least forty (40) days following the date of its adoption; and, additionally, unless a proclamation, notice or resolution states otherwise, a fair summary of the proposed Amendment shall be published in a newspaper of general circulation in the Town of North Brentwood not less than four (4) times at weekly intervals within the forty (40) days following the adoption this Charter Amendment Resolution, and the Clerk to the Council shall further endeavor, as much as practical, to publish a summary or a complete copy of this resolution by as many methods of communication as are reasonably possible of the following: posting on the Town's website, newsletter, the Cable TV channel, or any appropriate list serve or social media platform.

**SECTION 3.** **AND BE IT FURTHER RESOLVED** that unless an emergency proclamation or other authorized resolution or notice (See Attachment A, below) suspending, modifying or changing the applicable timelines and procedural constraints states otherwise, the Amendment initiated in this Charter Amendment Resolution shall take effect and shall become and be considered part of the Charter of the Town of Forest Heights, upon the fiftieth day after being so ordained or passed unless on or before the fortieth day after being so adopted and passed a referendum petition meeting the requirements of State law shall be presented to the Town or mailed to it by certified mail, return receipt requested, bearing a postmark from the United States Postal Service.

**SECTION 4.** **AND BE IT FURTHER RESOLVED** that the Amendment initiated in this Charter Amendment Resolution shall become effective, and unless an emergency proclamation or other authorized resolution or notice (See Attachment A, below) suspending, modifying or changing the applicable timelines and procedural constraints states otherwise, shall



take effect and shall become and be considered the Charter of the Town of Forest Heights, upon the fiftieth day after being so adopted or passed unless on or before the fortieth day after being so adopted and passed a referendum petition meeting the requirements of State law shall be presented to the Mayor and Council of the Town of Forest Heights or mailed to it by certified mail, return receipt requested, bearing a postmark from the United States Postal Service.

**SECTION 5. AND BE IT FURTHER RESOLVED** that when the Charter Amendment hereby initiated becomes effective, as provided herein, or following a referendum election, the Town Clerk shall send separately, by certified mail, return receipt requested, to the Department of Legislative Services within 10 days after the charter resolution becomes effective, the following information concerning the Charter Amendment: (i) the complete text of this Charter Amendment Resolution; (ii) the date of the referendum election, if any held with respect thereto; (iii) the number of votes cast for and against this Charter Amendment Resolution by the Council of the Town of Forest Heights or a referendum election; and (iv) the effective date of the Charter Amendment.

**SECTION 6. AND BE IT FURTHER RESOLVED** that the Town Clerk of the Town of Forest Heights is specifically instructed to carry out the provisions of Sections 2, 3, 4 and 5 hereof, as evidence of compliance herewith, the Town Clerk shall cause to be affixed to this Charter Amendment Resolution and to the Minutes of the Council Meeting in which it is adopted (i) an appropriate certificate of publication of the newspaper in which the summary of the Charter Amendment Resolution shall have been published and (ii) return receipts of the mailing referred to in Section 3, and shall further complete and execute the Certificate of Effect attached hereto.

**PASSED** by the Mayor and Council of The Town of Forest Heights, Maryland at a regular or special meeting on the 17th day of February 2021.

ATTEST:

THE TOWN OF FOREST HEIGHTS,  
MARYLAND

**SIGNATURE ON FILE**

Sherletta Hawkins, Town Clerk

**SIGNATURE ON FILE**

Habeeb-Ullah Muhammad, Mayor

**SIGNATURE ON FILE**

Calvin Washington, Council President

**CERTIFICATE OF EFFECT**

I, HEREBY CERTIFY THAT THE FOREGOING CHARTER AMENDMENT RESOLUTION OF THE TOWN COUNCIL FOR THE TOWN OF FOREST HEIGHTS DESIGNATED AS CHARTER AMENDMENT RESOLUTION NO. 02-2021, AFTER NOTICE AND A HEARING, WAS DULY INTRODUCED, READ, AND WAS ADOPTED BY THE MAYOR AND COUNCIL AT A DULY ANNOUNCED PUBLIC MEETING AND THEREAFTER POSTED AND ADVERTISED IN A REASONABLE MANNER, IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF THE ANNOTATED CODE OF MARYLAND, THE CHARTER OF THE TOWN OF FOREST HEIGHTS, AND THE ENABLING ORDERS OF THE GOVERNOR (NO. 20-03-30-03) ENTITLED "ENABLING MUNICIPALITIES TO POSTPONE ELECTIONS," DATED MARCH 30, 2020 AND ANY RELEVANT CIVIL EMERGENCY PROCLAMATION OF THE MAYOR.

**SIGNATURE ON FILE**

ATTEST:

Sherletta Hawkins, Town Clerk  
Town of Forest Heights, Maryland

**CHARTER AMENDMENT RESOLUTION ("CAR") SCHEDULE PER GOVERNOR'S  
EMERGENCY ORDER (NO. 20-03-30-03) AND MAYORAL PROCLAMATION**

DATE OF PUBLIC HEARING NOTICE	<u>Feb. 12, 2021</u>	(At least 5 days)
DATE OF INTRODUCTION/PASSED	<u>Feb. 17, 2021</u>	
POSTING END DATE:	<u>Mar. 14, 2012</u>	(30 days)
FAIR SUMMARY NEWSPAPER	<u>Gazette</u>	
PUBLICATION DATES (if any)	<u>Feb 20, 28, 2021</u>	(Optional)
		(Optional)
TOWN NEWSLETTER PUBLICATION DATE		(Req't by Order)
EFFECTIVE DATE:	<u>Feb. 22, 2021</u>	
MAYOR'S PROCLAMATION	<u>Feb. 17, 2021</u>	

## ATTACHMENT A – CHARTER AMENDMENT RESOLUTION 02-2021

### THE TOWN OF FOREST HEIGHTS – NOTICE TO GOVERNOR AND PUBLIC

This notice is given by Mayor Habeeb-Ullah Muhammad of the Town of Forest Heights, Maryland acting pursuant to the Proclamation of Governor Lawrence J. Hogan, Jr. (the “Governor”) dated March 5, 2020, proclaiming a state of emergency and a catastrophic health emergency related to COVID-19, as it may be amended or renewed from time to time, and the Order of the Governor dated March 12, 2020, entitled “Extending Certain Licenses, Permits, Registrations, and Other Governmental Authorizations, and Authorizing Suspension of Legal Time Requirements;” and, the Governor’s Order (No. 20-03-30-03) entitled “Enabling Municipalities to Postpone Elections,” dated March 30, 2020.

The time frame modification applies to the Town of Forest Heights’ Charter Amendment Resolution 02-2021, identifying the statutory provisions found in Subtitle 3 of Title 4 of the LG Art. of Md. Ann. Code and namely § 4-304 of said Art. Said Charter Amendment Resolution shall take effect five (5) days after a public hearing to be held on February 17, 2021. Notice of the hearing by posting the notice at the main municipal building for no less than five (5) days, and posting an exact copy of the resolution at the main municipal building for five (5) days after said resolution is adopted, and publishing a fair summary of the amendment on the Town’s website after the resolution is adopted. Any effect of Subtitle 3 of Title 4 of the LG Art. of Md. Ann. Code inconsistent with the foregoing is hereby suspended.

This Notice is effective immediately and shall remain in effect until 30 days after the state of emergency has been terminated and the proclamation of the catastrophic health emergency has been rescinded.

#### THE TOWN OF FOREST HEIGHTS

Date: 2/19/2021

By **SIGNATURE ON FILE**  
Habeeb-Ullah Muhammad, Mayor

*Note: Based on a memorandum dated March 15, 2020 from Governor’s Office of Legal Counsel, the agency/municipality should send a draft of the public notice to Mike Pedone (mike.pedone@maryland.gov) and Chris Mincher (christopher.mincher@maryland.gov) in the Governor’s Office of Legal Counsel. In the cover email provided at least 24 hours in advance, please briefly explain the rationale for the modification. E-mail a copy of the final notice to the Office of Legal Counsel at the same time you release it publicly. That e-mail will satisfy the requirement to provide “notification to the Governor”, as required by paragraph III.a of the Order.*

CAPITALS	:	Indicate matter added to existing law	Page 7 of 7
[[Brackets]]	:	Indicate matter deleted from existing law	
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